IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTIION

Writ Petition No. 8367 of 2006

1. Pandurang Dadu Maskar
and others ..Petitioners

vs.

1. Bhauso Sidgonda Patel
and another ..Respondents

Shri G.S.Godbole for petitioners.
Shri G.M.Sangave for respondents.

CORAM: S.C.DHARMADHIKARI J.
21st NOVEMBER, 2007

P.C.

1. Heard Shri Godbole appearing for the petitioners. Perused the impugned order refusing to condone the delay of 3 years, 7 months and 16 days in filing the appeal.

2. The reasons assigned are that the application is vague. There are no particulars disclosed either in the said application or in the deposition about the Advocate who was allegedly negligent. Further, there is nothing on record to substantiate as to why the petitioners, have not diligently followed up the matter at the stage of preliminary decree and, therefore,

should not be given any benefit by condoning the delay. The learned Additional District Judge, Sangli has observed in paragraphs 6 and 10 that the application of the applicant is silent with regard to the knowledge of the final decree proceedings. Such an application can hardly set out a cause which would warrant exercise of discretion in favour of the litigant. In such circumstances, I am of the view that this is not a fit case for interference under Article 227 of the Constitution of India. The discretion is exercised judiciously and considering the contents of the application for condonation of delay. The application is silent about the knowledge of the final decree.

3. Reliance is placed by the learned Counsel on the decision of Supreme Court in N.Balakrishnan Vs.M.Krishnamurthy reported in A.I.R.1998 S.C.3222. In the said matter the Supreme Court has interfered after it was satisfied that the cause shown was in deed genuine and sufficient. It was failure on the part of the Advocate and all details including the name of the Advocate were disclosed. In these facts, the Supreme Court reversed the order of the High Court which

interfered with the exercise of the discretion by the Trial Court. This decision is completely distinguishable on facts. There is no merit in the petition which is accordingly dismissed.

(S.C.DHARMADHIKARI J.)